

Meeting of 2005-1-11 REGULAR MEETING

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
JANUARY 11, 2005 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr.                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   John Vincent, City Attorney  
   Brenda Smith, Acting City Clerk  
   Col. Keith Herring, Fort Sill Liaison

Mayor Purcell called the meeting to order at 6:02 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given Rev. Edwina Reddick-Scott, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
Rex Givens, Ward Two

   Glenn Devine, Ward Three  
   Amy Ewing-Holmstrom, Ward Four  
   Robert Shanklin, Ward Five  
   \*Jeffrey Patton, Ward Six  
Stanley Haywood, Ward Seven  
Randy Warren, Ward Eight

ABSENT:    None.

\*Entered at 6:10 p.m.

PRESENTATION OF CITIZEN OF THE MONTH TO EULONDA ALKIN

Edwina Reddick-Scott, Mayor's Commission on the Status of Women, introduced Eulonda Alkin as Citizen of the Month for January 2005. Ms. Alkin's volunteer service, at age 88, includes coordinating the Phone Pal Program at the Center for Creative Living, Treasurer for the SCORE Program, teaching business seminars at Cameron University, and providing counseling for those wishing to start their own business. Mayor Purcell presented citations from the State of Oklahoma, a proclamation from the Office of the Mayor, and a Mayor's Do What's Right coin, noting that Ms. Alkin was a perfect example of that sentiment and very worthy of this presentation. Ms. Alkin said the organizations mentioned are in need of more volunteers and she encouraged others to volunteer.

PRESENTATION OF EMPLOYEE OF THE MONTH TO GEORGE CHEATHAM, PARKS & RECREATION COMMISSION

Kim Shahan, Parks & Recreation Director, and Gerald Catlett, Building & Grounds Division Supervisor, introduced George Cheatham as Employee of the Month. Catlett said Cheatham began work with the City in 1985 through the CETA Program as a summer job. He has worked in Athletic Maintenance, at the Owens Center, in Building Maintenance, in Parks Maintenance, and is currently serving as the Park Maintenance Supervisor. Mayor Purcell presented a plaque, Certificate of Honor, two days' leave, gifts from downtown merchants, and a Mayor's Do What's Right coin. He expressed appreciation for the hard work done by City employees and by Mr. Cheatham.

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL MEETINGS OF NOVEMBER 23, DECEMBER 6, 7 AND 14, 2004.

MOVED by Warren, SECOND by Ewing-Holmstrom, to approve the minutes. AYE: Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

**CONSENT AGENDA** : Separate consideration was requested for Items 2, 3 and 8.

MOVED by Shanklin, SECOND by Warren, to approve the Consent Agenda items as recommended with the exception of

Items 2, 3 and 8. AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval and consider passage of any resolution authorizing the City Attorney to file a friendly suit for this claim which is over \$400.00: Kailuianu and Jesus Nino. Exhibits: Legal Opinion/Recommendation; Resolution No. 05-02. Approved in the amount of \$4,791.30.
2. Consider the following damage claims recommended for denial: Manuela Andrews and A-1 Wrecker. Exhibits: Legal Opinions/Recommendation.

Warren asked about the A-1 Wrecker claim. Vincent said they were advised to file their claim through the Lawton Police Department, rather than as a tort claim. Warren asked if consideration had been given to establishing a City impound lot. Harold Thorne, Police Chief, said it had been discussed previously and he was told not to proceed further. Warren suggested it could provide more security for vehicles being held as evidence. The City Manager will check into this.

MOVED by Warren, SECOND by Shanklin, to deny the claims of Andrews and of A-1 Wrecker. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Devine. NAY: None. MOTION CARRIED.

3. Consider approving a resolution establishing a committee composed of seven (7) members to be appointed by the Mayor and confirmed by the Council to be known as the Lawton Enhancement Committee. Exhibits: Resolution No. 05-03. Members are: Rex Givens, Diane Bledsoe, Dr. Rosemary Bellino, Tony Capuccio, Barry Ezerski, Barbara Moeller and Mike Brown.

Ewing-Holmstrom suggested this group be called a task force with a specific purpose and that it be dissolved following completion of that purpose. She pointed out the number of committees that have been formed, and stated there are existing committees with very similar purposes. Givens said this committee is the result of previous discussions on an excise tax on real estate transactions and that Council had directed that it be formed. Mayor Purcell said the focus of this committee is the financing for enhancement, rather than enhancement itself.

MOVED by Warren, SECOND by Devine, to approve Resolution No. 05-03. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Devine. NAY: Ewing-Holmstrom. MOTION CARRIED.

4. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in filing and making payment of the judgment in the Workers Compensation case of Shelli L. Fox in the Workers Compensation Court, Case No. 2001-15985K. Exhibits: Resolution No. 05-04. Approved in the amount of \$23,472.60.

5. Consider adopting a resolution approving the settlement by a joint petition and making payment in the Workers Compensation case of N. Joan Bias in the Workers Compensation Court, Case No. 2003-05545-X. Exhibits: Resolution No. 05-05. Approved in the amount of \$23,700.00.

6. Consider accepting two warranty deeds which are needed for the Flower Mound Project #STP-116B(046) (Gore Blvd. To Rogers Lane); authorize the Mayor and City Clerk to execute the proper documents and authorize payments to property owners for all of the items listed below. Exhibits: None. Deeds accepted from Cox Development Co. of Lawton, Inc. and MJB Enterprises, LLC.

7. Consider authorizing the City Attorney to request the district court to dismiss the City's case in CJ-2004-16, release the judgment and dilapidation lien concerning the previously declared dilapidated structures at 1907 SW E Avenue. Exhibits: March 23, 2004 Journal Entry of Judgment. Structure was demolished by third party mortgage holder.

8. Consider adopting a resolution to create the Senior Crafts Fund. Exhibits: Resolution No. 05-06

Haywood asked the Mayor to explain the item. Mayor Purcell said the seniors create crafts in their recreation program and would like to sell them and use the funds to buy more supplies, rather than have proceeds from the sales go back into the General Fund.

MOVED by Haywood, SECOND by Devine, to approve Resolution No. 05-06. AYE: Patton, Haywood, Warren, Shoemate, Givens, Devine, Shanklin. NAY: Ewing-Holmstrom. MOTION CARRIED.

9. Consider authorizing the Mayor to execute the Annual Certification of Army Material Status for the M101A1 Howitzer provided by the United States Army to the City of Lawton for display. Exhibits: Annual Certification of Army Material Status.

10. Consider awarding a construction contract to L.D. Kemp Excavating, Inc. for the Modification of the Existing Landfill Leachate Collection System Project #2004-11. Exhibits: None. Awarded in the amount of \$236,076.50.

11. Consider acknowledging completion of the Oklahoma Department of Transportation (ODOT) SE Flower Mound Road (Lee Blvd. To Gore Blvd.) Project #2001-2 as constructed by Allen Contracting, Inc. Exhibits: None.
12. Consider accepting the Highland Cemetery Road Overlay Phase I Project #2004-8 as constructed by H.G. Jenkins Construction, Inc. and placing the Maintenance Bond into effect.
13. Consider approving plans and specifications for the NE Flower Mound Road (Gore Blvd. To Rogers Lane) Water and Sewer Line Relocation Project #2004-9 and authorizing staff to advertise for bids. Exhibits: None.
14. Consider acknowledging receipt of a permit for the construction of sanitary sewer lines from the Oklahoma State Department of Environmental Quality to serve the 24<sup>th</sup> Street area, City of Lawton, Comanche County, Oklahoma. Exhibits: None.
15. Consider approving contract with Theatreworks USA for school performances of Junie B. Jones on Friday, February 25, 2005. Exhibits: None. Approved in the amount of \$3,000.00.
16. Consider approving a contract with American Society of Composers, Authors & Publishers (ASCAP) to secure the use of copyrighted musical works for the City of Lawton. Exhibits: None. Approved in the amount of \$644.00.
17. Consider approving contract for School of the Arts Spring 2005 Semester for Steven Scott Smith (\$540), Sherri Denning (\$540), Natalie Sklaney (\$270), and Shana M. Shriver (\$270) faculty members for the project. Total amount for stipends is \$1,620.00. Exhibits: None.
18. Consider awarding contract for 15 Ton Trailer - CL05-025. Exhibits: Department Recommendation; Bid Abstract. Awarded to Southwest Trailers and Equipment, LLC of Oklahoma City, OK in the amount of \$14,495.00.
19. Consider awarding contract for Ballistic Vests and Covers CL05-019. Exhibits: Department Recommendation; Bid Abstract. Awarded to Special OPS Uniforms of Oklahoma City, OK; estimated cost is \$28,750.00.
20. Consider awarding contract for Fluorosilicic Acid CL05-021. Exhibits: Department Recommendation; Bid Abstract. Awarded to Lucier Chemical Industries, Ltd., dba, LCI, Ltd. Of Jacksonville Beach, FL.
21. Consider awarding contract for Sodium Hydroxide CL05-022. Exhibits: Department Recommendation; Bid Abstract. Awarded to FSTI of Manor, TX.
22. Consider rejecting bids for Credit Card Acceptance Program RFP CL05-026. Exhibits: Department Recommendation. Reject bids and direct staff to rebid.
23. Consider approval of payroll for the periods of November 8 to November 21, 2004; November 22 to December 5, 2004; December 6 to December 19, 2004; December 20 to January 2, 2005; and January 3 to January 16, 2005.

#### **BUSINESS ITEMS:**

Mayor Purcell asked that Items 24, 34 and 39 be stricken from the agenda.

24. Consider accepting the annual audit report of the City of Lawton for the year ending June 30, 2004. Exhibits: None. Copies of audit report have been distributed separately. Item was stricken.
25. Hold a public hearing and consider an ordinance changing the zoning from R-4 (High Density Apartment District) to C-5 (General Commercial District) zoning classification located at 2003-2007 N W Baldwin Avenue. Exhibits: Ordinance No. 05-01; Map; Site Plan; Application; Draft CPC Minutes.

Deborah Jones, Interim Planning Director, reviewed background as follows: This request is for Lots 26-30, Block 91, Lawton Heights Addition and measures 144 feet by 131 feet. The applicant is Birney Ferguson. The proposed use is an auto mechanic garage known as Mr. Transmission.

The zoning of the surrounding area is R-4 to the north and east, R-3 and C-5 to the south, and R-4 and C-5 to the west. The land use of the surrounding area is PSO substation to the north; single-family, duplex, and Buckaroo Club to the south; duplex to the east, and vacant and commercial (Mr. Transmission and Precision Motors) to the west. The 2025 Land Use Plan designates these lots as commercial. The current land use of the requested area includes a mobile home and vacant/boarded/burned out single-family residences and accessory buildings. On December 9, 2004, the City Planning Commission held a public hearing on this request. During the public hearing one person spoke in favor of the request and one person spoke against the request. The CPC, by a vote of 9-0, recommended approval of the request. Notice of public hearing was mailed on December 21, 2004, to 26 property owners within

300 feet of the requested area, and proper notice was published in The Lawton Constitution on December 26, 2004. Jones provided digital photos of the area.

Givens asked if a buffer was required between residential and commercial areas. Jones said a six-foot opaque screening fence will be required and that will come about when the site plan for the new building and construction commences. Givens asked if the fence would be along 20<sup>th</sup> Street. Jones said yes, there is a triplex at the corner.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Warren, SECOND by Haywood, to approve Ordinance No. 05-01, waive reading of the ordinance, reading the title only.

Title read by City Attorney Ordinance No. 05-01

An ordinance changing the zoning classification from the existing classification of R-4 (High Density Apartment District) to C-5 (General Commercial District) zoning classification on the tract of land which is hereinafter more particularly described in Section One (1) hereof; authorizing changes to be made upon the Official Zoning Map in accordance with this ordinance.

VOTE ON MOTION: AYE: Devine, Ewing-Holmstrom, Shanklin, Haywood, Warren, Shoemate. NAY: Patton, Givens. MOTION CARRIED.

26. Hold a public hearing and consider an ordinance closing a portion of a public utility easement on Lots 1 and 2, Block 14, Rolling Meadows Addition located at 2105 NW 43<sup>rd</sup> Street. Exhibits: Map; Property Survey; Ordinance No. 05-02.

Deborah Jones, Planning, reviewed background as follows: An application to close a portion of public utility easement located at 2105 NW 43<sup>rd</sup> Street (Lots 1 and 2, Block 14, Rolling Meadows Addition) has been submitted by Donald Aycock. The purpose of the request is to close a portion of the easement for title purposes. The existing structure was constructed over a portion of the easement. All utility companies and the Public Works Department have been advised of the request. No one has raised an objection to the closure. If the Council approves an ordinance closing the requested area, the applicant will petition District Court to have that portion of the easement vacated. Proper notice for the public hearing was mailed to property owners within 300 feet and notice was published in the Lawton Constitution. No objections to the closure from property owners within 300 feet of the request have been received. Several calls of inquiry have been received.

PUBLIC HEARING OPENED.

Don Aycock, applicant, said he owned the property from 1968 through last September. He said an easement was placed for an overhead wire for Public Service Company but no facilities were ever installed. Aycock said he was not aware of the problem until he attempted to sell the property and move to his current residence at 1107 NW Becontree Drive. He said he has lived in Lawton since 1951, had never appeared before Council prior to this time, and requested approval of the request to allow the sale of his previous residence to be completed.

PUBLIC HEARING CLOSED.

Warren asked if it would be appropriate to add an emergency clause to the ordinance. Vincent said the closure action will have to be filed in District Court and that an emergency clause would not help the transaction proceed any faster.

MOVED by Shoemate, SECOND by Ewing-Holmstrom, to approve Ordinance No. 05-02, waive reading of the ordinance, reading the title only.

Title read by City Attorney Ordinance No. 05-02

An ordinance closing a portion of a utility easement located on property in Lots 1 and 2, Block 14, Rolling Meadows addressed as 2105 NW 43<sup>rd</sup> Street, more particularly described in Section One hereof.

VOTE ON MOTION: AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Devine. NAY: None. MOTION CARRIED.

27. Hold public hearings and adopt resolutions declaring the structures at: 914 SW E Avenue, 417 NE 46<sup>th</sup> Street, 619 SW Magnolia Street, to be dilapidated public nuisances, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove each dilapidated structure, if necessary. Exhibits: Resolution Nos. 05-\_\_\_, 05-\_\_\_ and 05-\_\_\_.

914 SW E Avenue: Melissa Laycock, Neighborhood Services Supervisor, presented photos of the structure, which was

involved in a fire on October 3, 2004. She said it was posted and mailed for dilapidated and dangerous on October 5, 2004, and was first scheduled for City Council on December 13. Laycock said the Assistant Fire Marshal inspected it on December 27.

PUBLIC HEARING OPENED.

Henry Herzig, 1102 SE Flowermound Road, owner, said homeless persons entered the structure, he had to arrest them, and the structure was involved in a fire. He said 1,500 sewing machines were stored in the building and were destroyed. Herzig said he was having difficulty reaching a settlement with his insurance company and requested a delay of 90 days to finish the transaction. He said he planned to rebuild the structure and would start work as soon as the settlement was done.

Shanklin pointed out that State Statutes govern structures, which are more than 50% dilapidated. He said he did not mind delaying this for 60 days to finish the insurance settlement but it will take a great deal of money to rehabilitate the structure to current-day codes in all respects. Shanklin recommended that Herzig ask a City Inspector to visit the structure with him and explain everything involved in the rehab. Herzig said he had been through this before, knew what was involved, and that the cost was insignificant to him.

Warren asked if Council had discussed this previously about a different property. Shanklin said there was one a block to the east. Herzig said he had another property several years ago that was involved in a fire but that it was not even in the same block as this one. Herzig said this property is on E Avenue and the other one was on D Avenue, and that it had been taken care of. Shoemate said he had known Herzig for 30 years and knew him to be a hard-working businessman and an asset to the community.

PUBLIC HEARING CLOSED.

MOVED by Shanklin, SECOND by Patton, to table 914 SW E Avenue for 60 days. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

417 NE 46<sup>th</sup> Street: Laycock said the initial inspection was done on October 29, 2003; letters were mailed October 31, 2003 and it was posted November 27, 2003, scheduled for City Council in December 2003. The attorney, Mr. Burgess, requested extensions and he was granted six months. Another inspection was done June 21, 2004; letters were mailed June 28, 2004. The neighborhood watch group lodged numerous complaints with Neighborhood Services and the Mayor's Office. The matter was scheduled for City Council on November 9, 2004, and the attorney again requested time until a hearing, which was scheduled for January 2005. It was inspected by the Fire Marshal on December 27, and it was unsecured today when it was inspected.

Ewing-Holmstrom said this is down the street from her house and the lawn is cared for very, very well. She said the owner previously said there was a problem with the insurance company, but there are children in the neighborhood and the house must be secured for safety reasons. Ewing-Holmstrom asked if the sliding glass door was open. Laycock said the front door was open.

Patton agreed the house needed to be secured. He said he was in the insurance business and that the hearing date had been pushed back. Patton said as long as the exterior is being maintained and kept secure, he felt the owner, who is a single mother with two children, should be helped in this manner.

Ewing-Holmstrom said she did not object to an extension if the structure would remain secure and she commended the owners on diligence in taking care of the lawn and shrubs. She said a person could not tell just driving by that there had been a fire at the house.

Mayor Purcell asked if the junk and debris had been removed. Ewing-Holmstrom said others are dumping things on this property. Laycock said strong winds had caused some siding to be blown into a neighbor's yard. Mayor Purcell said the complaint he received was about debris being left in the house and vermin were causing problems. Ewing-Holmstrom said she knew the yard had been cleaned up.

PUBLIC HEARING OPENED.

Brad Burgess, 821 NW 44<sup>th</sup> Street, attorney, said he was representing Ms. Toye Johnson in her pending litigation against Farmers Insurance in front of Judge Lewis since July 2003. He said a jury trial was scheduled for January but it has been postponed until the May docket. Burgess said his client has a legitimate, good faith dispute with the insurance company, which is not paying the claim. He said his client has kept the property up vigilantly, cleaned up all debris around the property, and felt sure the front door was locked and that you could not gain access without a sledgehammer. Burgess said he needed another six months to get this resolved.

Ewing-Holmstrom asked if the house was structurally sound and this would only involve an interior remodel or if demolition was planned. Burgess said there has been a lot of damage to the property and they have one estimate

for \$178,000 to fix it, so it would almost be cheaper to demolish it and start again but from an evidentiary standpoint he had not talked to Judge Lewis yet because he wanted to see what the Council did first but they would like to have the property standing at the time of the trial.

Haywood said he knew the owner; she was a counselor at Douglas School and the first African American to be a counselor at Lawton High School. He asked if the house had been gutted. Burgess said the sheet rock and the severely damaged interior portion of the house have been removed. Ewing-Holmstrom complimented the owner on the upkeep of the lawn.

Mayor Purcell asked if all of the debris in the yard is gone. Burgess said there is no debris in the yard. Ewing-Holmstrom said neighbors a few doors down have had trash blow from their yard to others.

PUBLIC HEARING CLOSED.

MOVED by Ewing-Holmstrom, SECOND by Patton, to table 417 NE 46th for six months. AYE: Patton, Haywood, Warren, Shoemate, Givens, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

619 SW Magnolia: Laycock said the complaint was generated March 20, 2003, by one of the inspectors. Letters were mailed March 24, 2003. No action was taken until this year when letters for debris and improperly stored motor vehicles were mailed December 2 and it was then scheduled for City Council December 13. She said it is a mobile home, the roof is 80% gone and the inside is 75% gutted. A trellis was put up to block the view of the destroyed mobile home.

Haywood said the owner would like to receive discounted landfill fees.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Ewing-Holmstrom, to approve Resolution **No. 05-07** for the property at 619 SW Magnolia Street. AYE: Haywood, Warren, Shoemate, Givens, Devine, Ewing-Holmstrom, Shanklin, Patton. NAY: None. MOTION CARRIED.

28. Consider issuing a new revocable permit for maneuvering of vehicles, continued location of signage and the overhang of a canopy upon the street easements of East Gore Boulevard and Southeast Flower Mound Road for a convenience store facility located at 3003 East Gore Boulevard. Exhibits: Site Plan; E-Mail from Public Works Director; Revocable Permit on file in City Clerk's Office.

Deborah Jones, Planning, said Carey Johnson Oil Company filed an application for a new revocable permit for 3003 E Gore Boulevard. The site currently has a convenience store with gas pump facilities. In 1984 the City granted a revocable permit on two parcels shown on the site plan to be used for maneuvering on the right of way to put in the gas islands. The owner now wishes to install a new overhead canopy, which will be a further aerial encroachment into parcel two. Letters were sent to utility companies and the Public Works Department. The Public Works Department believes they can maintain the 42 underground storm drain based upon the height of the overhang, however, objections have been received from Centerpoint Energy and the City Attorney's office to the expansion of the revocable permit. The current signage that is located on the right of way was not included in the first revocable permit in 1984, and it has subsequently been added. Should Council desire to issue a new permit for the maneuvering on the right of way, the signage and the overhang, it will be included in the permit.

Keith Marple, District Manager for Centerpoint Energy, said there have been problems with access to easements and rights of way for many years, and they had been trying to get a plan in place to process the requests. He said Centerpoint Energy objects to the process of issuing revocable permits to allow encroachments on easements; there is no on-going monitoring of encroachments on easements, facilities are placed over easements, which are later needed to expand utility facilities, and that drives up the cost of installation and can inhibit service to some areas due to the cost of installation. Marple said in April 2003 a steering committee was formed to look at revocable permits and access to easements, and they had not reached a point to be able to present their findings to the Council.

Givens asked if the objection was in general, as opposed to this specific request. Marple said yes. Marple said many councilmembers expressed interest in the growth of Lawton on the east side, and to the south of this, there is a lot of vacant property; getting the infrastructure to that property will require the use of right of way and easements to provide natural gas, phone lines, television cable and electric service. Marple said when something like this is allowed, it makes it difficult for the utilities to plan for and handle the expansion of those facilities.

Shanklin said if access is needed to the easement, the owner is required to remove the encroachment without any complaint. Marple said he had seen a revocable permit for a parking lot, which was asphalt with bumper blocks attached to the ground with rebar. He said if there is an underground facility, it puts the installer in danger and their foremost concern was safety. Marple said in this case, if access is needed, the concrete, shrubs, overhang, and parking blocks would have to be removed, and it would put a hardship on the property owner, who may

changed over the years.

Shanklin asked when Centerpoint Energy last needed to gain access to an area that had been granted a revocable permit. Marple said they were in the process of relocating a natural gas line in an area that Council granted a revocable permit for, and by that approval of the structure over the area, they were immediately going to have to ask the applicant to remove the structure that had just been approved. He said there have been instances within the last six months, and he anticipated it would continue.

Mayor Purcell said this instance is for an aerial canopy which encroaches only five and half feet so it did not seem as bad as cement being placed on the ground for five and a half feet. Marple agreed but said it could have an impact on overhead power lines. Mayor Purcell said they would have to take it down if they needed it for power lines. Shanklin asked if Centerpoint Energy objects to all revocable permits. Marple said yes, to the process. Marple said the utility companies want to work with the City on this issue to enable the City to grow.

Carey Johnson, 8203 NW Stonebridge, representing E-Z Go, said the only use for this property is the 5 6 overhang of the canopy. He said vehicles currently drive on it and that will not change.

Ewing-Holmstrom asked if the sign was not included in the original permit. Johnson said he did not know of anything that was built previously outside of what they were allowed to do. Ewing-Holmstrom said this is one of the busiest intersections in town and asked if they were expanding. Johnson said they were adding more fuel pumps and it is a busy location; people stack up in the parking lot waiting to obtain fuel so they hope this will move them through quicker. Ewing-Holmstrom said she was not anti-business but that she was not in favor of revocable permits and her vote against this issue was not a vote against this business. Johnson said there is a revocable permit in place now. Ewing-Holmstrom said supporting revocable permits is not doing the City or utility companies any favors. She said we are not being smart by doing this.

Warren said the answer to this is to have right of ways that are owned and maintained by the City. He said it is ludicrous to have property owned by an individual that he is not allowed to use but must mow and maintain. Shanklin said he could not visualize problems with a structure that is in the air, and each of these is different, but he had to support it.

Tim Hushbeck, Public Service Company of Oklahoma, said his firm did not lodge an objection to this but he was concerned about including the sign in the revocable permit. He said he did not know if they were informed of that happening. Hushbeck said there was a problem at Porter Hill where they were redoing a canopy and a gentleman was killed. He said there are reasons for the easements and his firm also concentrates on safety to the public, and that was where he had concern. Hushbeck said the sign is in an easement and that could be in violation by being too close to PSO lines. He said he had nothing against the E-Z Go Corporation but there is a need to be careful from a safety standpoint on these permits. Hushbeck said the more access that can be provided to the easements, the quicker people will get their power back on during outages.

Ewing-Holmstrom said the utility companies and Planning Department recommend denial, give good reasons, including safety, yet Council usually votes for them. She said Council should listen to those who are paid to look into this and to those who must deal with the easements every day and do the right thing.

MOVED by Ewing-Holmstrom, to disapprove the revocable permit for 3003 East Gore Boulevard. Motion died for lack of second.

MOVED by Shanklin, SECOND by Devine, to approve the revocable permit for 3003 East Gore. AYE: Warren, Shoemate, Givens, Devine, Shanklin, Patton, Haywood. NAY: Ewing-Holmstrom. MOTION CARRIED.

29. Consider a request for a revocable permit for the placement of a covered patio on the easement located at 108 SE Churchill Way. Exhibits: Application for Building Permit and Survey; Application for Revocable Permit; Revocable Permit on file in City Clerk s Office.

Deborah Jones, Planning, said an application was received from Garth Rentis for a covered patio on the rear utility easement at 108 SE Churchill Way. The covered patio was constructed without a valid building permit. In November Mr. Rentis was given a stop order to cease construction on the covered patio and directed to obtain a building permit. On November 15 the application for a building permit was denied because the survey indicated the new structure encroached on the rear utility easement. On December 11 Mr. Rentis submitted an application for a revocable permit.

Jones said the application was sent to Public Works and the private utility companies. It appears the sewer is about 6 feet, 4 inches from the privacy fence in between the patio. She said AEP and SW Bell did not reply to the inquiry; Centerpoint, Cablevision and the Civil Engineer of the License and Permit Division, as well as the City Attorney s Office, all object to the issuance of the permit based upon potential hindrance to the maintenance of the sewer main.

Ewing-Holmstrom asked if fines are applicable for building without a proper permit. Jones said there might be a late fee of a cost of double the price of the building permit for the accessory building. Vincent said the inspector could issue a citation if they chose to do so.

Garth Rentis, owner, 108 SE Churchill Way, said he was told if he was going to add living space to his property that a permit would be required but this is just an open patio. He said if he were aware of the easement, he probably would not have bought the house because half of his yard was in the easement. Rentis said he had no knowledge of easements and he did not think a permit was required for an open patio until he later found he was told incorrectly. He said the sewer line is on the outside of his fence.

Ewing-Holmstrom asked if Rentis was provided a survey when he purchased the house. Rentis said this is the first house he has bought here, although he owned one previously in Puerto Rico. Ewing-Holmstrom asked if he put down concrete. Rentis said yes, it is concrete, on the easement. Ewing-Holmstrom said the survey should show the easement. Jones described the drawing. Ewing-Holmstrom said she is Mr. Rentis' representative but could not support the application.

Warren asked if any utilities were under the actual construction. Jones said not that she was aware of.

MOVED by Ewing-Holmstrom, to disapprove the issuance of the revocable permit for 108 SE Churchill Way.

Givens asked if there is a 25-foot utility easement in the rear. Jones said it abuts the E Gore right of way and that portion of E Gore has not been reconstructed to arterial standards, which would require 100 to 125 feet of right of way to do.

SECOND by Shanklin to Ewing-Holmstrom's motion to disapprove the revocable permit.

Shanklin asked how deep the concrete is and how they got it back there. Rentis said his is the last house in Sungate and the back is toward a big field. Haywood asked if there was a gate and Rentis said yes, that is how the concrete was delivered.

VOTE ON MOTION: AYE: Shanklin, Shoemate, Ewing-Holmstrom. NAY: Haywood, Warren, Givens. OUT: Patton, Devine. TIE VOTE, MAYOR VOTED AYE, MOTION CARRIED.

30. Consider issuing a revocable permit for the parking and maneuvering of vehicles in the street right-of-ways adjacent to 1210 through 1212A Wisconsin, 1301 through 1303A Wisconsin, 1317 through 1327A Wisconsin, 1602 through 1608A Wisconsin, and 1607 through 1613A Wisconsin Avenue. Exhibits: Site Plans; E-Mail from Centerpoint Energy; Memorandum from Civil Engineer; Revocable Permit on file in City Clerk's Office.

Deborah Jones, Planning, said an application was received from the Lawton Housing Authority, which applied for a building permit to remodel existing units and add to the on-street parking that serves the units. Notice was sent to utility companies. No objection was received but Centerpoint raised some concern if they needed to increase the amount of gas to this subdivision and that some care needs to be used in renovating the units and with the gas meters in the alleys. This neighborhood has platted alleys. If any of the remodeling or parking in the street right of way causes the relocation of water meters, the applicant must bear the cost of the relocation of the water meters and they have been so advised.

Shoemate asked for identification of the drawings and Jones explained. She said it is common for water lines to be under driveways and that is likely the case here, but the sewer will be in the rear. Mayor Purcell asked why this one would be different from the one that was just turned down where someone put concrete over an easement, and this may be a right of way. Jones said in any residential neighborhood there would always be water mains in the front and there will be numerous driveways; the City maintains the water lines and must remove driveways. She said this will be the case here, and there are no other utility lines in the front so there is less likelihood of a conflict other than the water main maintenance. Jones said they realize if the drives are removed to work on the water lines that the City will only backfill the area and will not restore it.

Haywood said the Housing Authority is renovating the apartments and some will have five bedrooms. He said he was a former Housing Authority member but had to leave due to a conflict of interest.

MOVED by Haywood, SECOND by Devine, to approve the issuance of a revocable permit, as requested, subject to the conditions that the water meters be relocated and the water valve box be raised if necessary.

Warren said on this item we are allowing someone to pour concrete over one of our utilities but in the previous item the applicant will be made to tear up concrete that he poured not over a utility. Shanklin said there was a sewer line under the patio. Warren said no, it was four feet away. Haywood said these driveways are already there, they are just being expanded. Warren said the previous applicant already had a patio but just enlarged it and put a



roof over it. Devine said this is done daily when a new home is built in Lawton; every builder builds a driveway over the water line. Warren said he understood.

VOTE ON MOTION: AYE: Patton, Haywood, Warren, Shoemate, Givens, Devine, Shanklin. NAY: Ewing-Holmstrom. MOTION CARRIED.

31. Consider awarding a construction contract to M.L. Young Construction for the 2005 CIP Waterline Replacement Project #2004-3. Exhibits: Maps.

Jerry Ihler, Public Works Director, said on November 23, 2004, Council approved plans for the first water line replacement project as part of the 2005 Capital Improvement Program. The project consists of 3.3 miles of 8 water line being replaced in areas shown in a location map. On December 21, 2004, bids were received from three contractors. The lowest bid was from M. L. Young Construction in the amount of \$854,441.20. Five references were contacted and some reservations were expressed about the timeliness of completion and the number of change orders requested. Ihler said the City has had experience with this contractor on two occasions and the problems were timeliness and the request for change orders; however, the difference in price between the lowest and next to lowest bid was \$130,000 so it is hard to overcome that. He said although there are some reservations about this, staff feels if we stay on top of the contractor and work hard with him that he can accomplish the project as designed. Shanklin asked if the contractor has had to pay penalties for being late before. Ihler said yes.

Warren asked if the old water line would be torn out. Ihler said no, the new line is typically laid one or two feet from the existing line and make the taps at the last minute. Warren asked if the driveways will be torn up and replaced with concrete. Ihler said they have the option of removing the concrete but most bore the driveways. Ihler recommended award to M.L. Young Construction in the amount of \$854,441.20.

MOVED by Shanklin, SECOND by Warren, to approve the contract as recommended.

Patton asked if the City has continual problems with a contractor, can that be considered. Ihler said yes, Council has the option to not award to a contractor that has had problems in the past. Ihler said that happens very seldom, especially when there is a large price difference in the bids. Mayor Purcell said this was discussed several years ago and staff was instructed to provide the information on prior liquidated damages for Council to consider. Mayor Purcell asked what the liquidated daily damages are on this project. Ihler said for a project under \$1 million it is usually \$300 per day.

VOTE ON MOTION: AYE: Haywood, Warren, Shoemate, Givens, Devine, Ewing-Holmstrom, Shanklin, Patton. NAY: None. MOTION CARRIED.

32. Consider approving Change Order No. 1 for the West Cache Road 24 Waterline Phase I Project #2003-11 with Bowles Construction Company, Inc. Exhibits: None.

Jerry Ihler, Public Works Director, said the contract for work from 82<sup>nd</sup> Street west to the industrial tower to increase the capacity of the west industrial park and to provide the opportunity for future development. A part of the 82<sup>nd</sup> and Cache Road intersection will have to be closed to make this tie-in. Phase two goes from Pump Station #1 at 67<sup>th</sup> to 82<sup>nd</sup>, and it will require closing the intersection again. This change order will allow the contractor to add 140 feet and extend the line through the intersection so it only has to be closed once. A cost savings should be realized because the costs of pipe and steel are increasing daily.

Ihler said the total cost of the work to be performed is \$73,180.80. The request is that \$49,834.55 of that, which is the actual change order itself, come from the original project account which is the 2000 CIP economic development. The overrun of \$23,346 is requested to come from the 2005 CIP because that is the phase two project.

MOVED by Warren, to approve as recommended by Ihler.

Shanklin asked if 4,300 feet of 24 water line is being laid for \$385,000. Ihler said about \$490,000 has been spent to date. Shanklin asked if one-fifth of the contract was the intersection because we are giving them \$73,000 more than the \$385,000. Ihler said it is the intersection work, as well as extending the pipe another 140 feet to the east. Ihler said the majority of the cost in the change order is for traffic control, which was not part of the original contract because he was not closing the entire intersection. He said the steel casing for the 24 pipe across the intersection costs \$11,000; the rest is labor, overhead and profit.

SECOND by Shoemate to Warren's motion.

Mayor Purcell asked why part was coming from the 2000 CIP economic development and the rest is from the 2005 CIP. Mitchell said when Council originally approved the water line project, the funding was from the 2000 CIP economic development fund for the west half of the line; the east half of the line was proposed to come from the

2000 CIP, we felt the difference of \$23,000 should also come out of the 2000 CIP because you are actually paying for part of the phase two portion of the line upfront. Mitchell said it would have to be done under phase two if the change order is not done. Mayor Purcell asked if Mitchell meant 2005 and Mitchell said yes, as Ihler recommended.

Shanklin asked if everyone could tie on to the 18 line since they donated right of way on impact fees. Ihler said we will have another committee meeting, but we believe we can recoup some of this cost.

VOTE ON MOTION: AYE: Warren, Shoemate, Givens, Devine, Shanklin, Patton, Haywood. NAY: None. OUT: Ewing-Holmstrom. MOTION CARRIED.

33. Consider authorizing the Street Department to participate with H.G. Jenkins Construction, Inc. for the reconstruction improvements of South Railroad Street from Lee Boulevard to Bishop Road. Exhibits: Letter dated 12/29/04 from Public Works Director/City Engineer.

Ihler said as part of the 2005 CIP street improvement, the Street Division is in the process of reconstructing South Railroad Street from Lee Boulevard south to Bishop Road. This road provides access to H.G. Jenkins facility, and Mr. Jenkins has agreed to provide labor and equipment. In exchange, the City would purchase asphalt for the project from Mr. Jenkins under its existing asphalt purchasing contract. Ihler said there would be a significant savings in Jenkins providing the labor and using their equipment, and there will be a lesser inconvenience to the businesses and residents because the work can be done quicker since we are more oriented toward maintenance than construction.

Devine asked the price difference in asphalt between Jenkins and T & G. Ihler said he did not know and that the City buys it off of the state contract and the prices are very similar. Ihler said a similar arrangement was reached with T & G for a roadway improvement in front of their facility.

MOVED by Haywood, SECOND by Shanklin, to authorize the Street Division to participate with H.G. Jenkins Construction for the reconstruction improvements of South Railroad Street from Lee Boulevard to Bishop Road. AYE: Shoemate, Givens, Devine, Shanklin, Patton, Haywood, Warren. NAY: None. OUT: Ewing-Holmstrom. MOTION CARRIED.

34. Consider approving a credit adjustment to utility account #1301054142 for Rodney Dirickson for his property located at 2902 SE 45<sup>th</sup> Street in the amount of \$1,655.92. Exhibits: Repair bill dated 11/20/04 from Pippin Brothers, Inc. Item was stricken.

35. Consider approving an adjustment in the amount of \$1,007.75 to utility account #0302019724 for Mr. John Kinder for an undetectable leak for property located at 2544 NE Heritage Creek Drive. Exhibits: L & L Sprinkler System statement dated 11/17/04.

Rick Endicott, Finance Director, said Mr. Kinder received a high water bill for October (169,000 gallons) and November (306,000 gallons), due to a leak in the sprinkler system, which Mr. Kinder had repaired. Staff recommended an adjustment of \$1,007.75.

Givens said he got a high bill for October and if he had been quicker about getting it fixed, he should not have gotten such a high bill for November. Endicott said November was a very rainy month and Kinder was not aware the leak was so severe. Givens said usage of 169,000 gallons indicates a leak and that is on the bill. Endicott agreed. Givens said the statement is that the leak was fixed in the middle of October but the November usage was 306,000 gallons. Shanklin said the statement was that it was fixed between 9/1 and 10/15, and that is a six-week period not to know for sure. Endicott said the repair company could not provide a specific date.

Mayor Purcell asked if this is for one, normal size residence and what a normal usage would be for these months. Barbara Curran, Revenue Services Supervisor, said this usage is high and it is a big house with a sprinkler system; the normal usage at this house is between 16,000 and 46,000 gallons per month.

MOVED by Warren, SECOND by Givens, to adjust only the first month s bill of \$317.52.

Patton asked if a resident is well into the next month before getting a bill for the previous month. Givens said the first bill was four times the normal usage. Curran said the 169,000 gallons was between August 23 and September 22 so the bill would have been received in early October. She said L & L Sprinkler personnel said they were called in September or October. Curran said the bill for the period of September 22 to October 22 would have been received in early November. Ewing-Holmstrom asked if they have a pool and Vincent said yes.

SUBSTITUTE MOTION by Patton, SECOND by Haywood, to credit the amount that Endicott and Curran suggested for both bills totaling \$1,007.75. AYE: Patton, Haywood. NAY: Givens, Devine, Ewing-Holmstrom, Shanklin, Warren, Shoemate. SUBSTITUTE MOTION FAILED.

VOTE ON MOTION by Warren, Second by Givens: AYE: Haywood, Warren, Shoemate, Givens, Devine, Ewing-Holmstrom, Shanklin, Patton. NAY: None. MOTION CARRIED.

36. Discuss the permitting and allowing of Billboard/non-accessory signs within the City limits or in designated areas and provide direction to staff. Exhibits: City Code Chapter 18-9-1 available in City Clerk's Office.

Devine said he received several calls about signs being put up on E Gore. He said Council was not setting direction for the Sign Committee as far as the size of signs to be put inside the City limits on arterial roads, and that is needed because some signs are very large. Devine suggested a size be established and anyone requesting a larger sign should have to receive Council approval.

Givens said the Sign Committee has met five or six times and is close to bringing a proposal to Council. He said they were primarily working on cleaning up the old sign ordinance, and the new ordinance will have a chart to show exactly what is allowed in certain zoned areas. Givens said they are also addressing enforcement, and some sizes as well. He said currently there is no limit on the number of attached signs that are allowed, and they will hopefully propose that the square footage of a pre-standing sign plus the signs on the building cannot be a certain percentage more than the whole face of the building itself. Givens said the only proposal on billboards was to add a provision that a billboard cannot be within 200 feet of a residential area because a lot that Council rezoned at 17<sup>th</sup> and A could have a billboard, for example. He said a limit will also be proposed on the distance between any two billboards, and that they only be allowed on arterial roads. Givens said if Council desired to give guidance on sizes of billboards, the committee could address that, realizing that any billboards in existence would likely be grandfathered for three to five years. He said the committee should report in two or three months. He said safety considerations for billboards would also be addressed.

Haywood asked if the City owned the billboard at 11<sup>th</sup> and Bishop Road. Jones said Urban Renewal owned a lot that contained a billboard and they may have acquired it through litigation. Vincent said the City owns a double-faced, lighted billboard at 11<sup>th</sup> and Bishop and it usually contains messages such as diazanon notices and public announcements.

Dusty Johnson, 5104 NW Cherry, general manager of Kelleher Outdoor Advertising for this area, spoke with regard to his company and their concern to have appropriate billboard signs in place. He said his firm and the related state association have guidelines for billboards. Johnson said he had not put up a new billboard structure in Lawton in over four years; some have been improved and the size has been increased on some that were existing after getting permits but those were on interstates. He said there was no good reason to have some of these billboards be so large, such as a 12 foot by 36-foot billboard on Sheridan and Lee and to stack them on top of each other. Johnson said his firm worked with the City on the diazinon and clean air campaigns. He said most of their billboards are 288 square feet, which is the size of a standard billboard poster. Johnson offered to help work on the sign ordinance and he will be contacted as to meeting times.

Mayor Purcell asked that the Sign Committee set a goal of having a report to the Council by the first meeting in March if possible, and that the current sign ordinance be enforced, starting on Cache Road. Discussion was held about signs being posted on telephone poles and in medians, and various objectionable signs at businesses. Vincent spoke regarding enforcement.

37. Consider the situation created by the operation of the car wash located at 7515 NW Cache Road and provide direction to staff. Exhibits: None.

Patton said area residents are continuing to have a hard time with the noise created at the car wash. He asked Vincent if a patron on the property is cited for loud noise, could the property owner also be cited. Vincent said no, the property owner is not responsible for the individual, but he could be responsible if he maintains a situation that is a public nuisance. Vincent said information was distributed to Council listing various public nuisances, and number six, keeping a place where activities are done in violation of the ordinance, seems to apply to this situation. He said the Police Chief advised him there were 15 citations issued in the 7500 block of W Cache Road but a determination is needed as to whether it is this property.

Vincent said the 911 center has been asked to provide a list of all the complaints they have received, including those where an officer did not arrive in time to issue a citation. Patton asked what kind of numbers they were looking for. Vincent said for the Council to be able to declare a public nuisance, there must be evidence that the public is being bothered; one of the ways to be able to put that in a resolution would be the numbers and types of complaints received by law enforcement or neighborhood services. He said if Council were to pass such a resolution, it would also authorize the City Attorney to file in District Court because that is where the action to affect the business would take place. Patton asked if he was speaking of monetary damages. Vincent said it would be up to the Council, or whether it would be for him to set hours of operation. Patton said residents are present to speak to this issue.

Harold Thorne, Police Chief, said some of these appear to be occurring on the weekends but over a 12 month period there have been 15 citations in the 7500 block of Cache Road and they are researching further to see if they

were all at the car wash. He said a question was asked earlier about the number of calls and one print out shows 79 calls in the last year reference the loud music.

Ewing-Holmstrom asked if there were statistics for other car washes that are fairly close to residential areas, such as the one at 38<sup>th</sup> and Rogers Lane. Thorne said they receive loud music calls at other car washes also.

Shoemate asked if it was possible to place time restraints on the car washes. Vincent said it would have to be city-wide, or have a standard that if a car wash is within 500 feet of a residential structure, they must close down at a certain time at night, but it would have to be uniform and not for just one particular car wash. Patton said some are not as bad as others.

Patton said he distributed minutes from the original meeting in 2002 and Glenda Haynes spoke, she lives behind the Sonic on 61<sup>st</sup> and Cache Road and she complained about the noise at that location, and her testimony is identical to the complaints being received from this area. He said Mr. Tippens said he intended to design large signs about the city ordinance and put them on the vacuums and they would be big enough for everyone to read. Patton said there are small stickers on the vacuums saying no loud music or noise, but nothing saying it violates the city code or giving the penalty. Ewing-Holmstrom asked if this is a 24-hour a day car wash. Patton said the minutes reflect the owner said it would not be operated 24 hours but he thought it was; the lights go off at 2 a.m. in the summer and at midnight the rest of the time.

Patton said he and the residents are not against car washes and do not want to attack businesses, but want those who own businesses to act responsibly for their product.

Aaron Goadin, 7624 NW Baldwin, said he is a renter and his back yard is 300 meters from this car wash. He said he is not against the business and he uses the car wash. Goadin said his wife is a stay at home mom and they have a 19 month old daughter and another child on the way; they must adjust their supper time due to the music so they eat later in the evening due to the noise. He said they have to turn the TV up to be able to hear it. Goadin said it is a nuisance and they are present to beg the Council to see that someone is held accountable for it; the business is infringing on his personal rights. He said he should be able to sit in his living room inside of his own house and enjoy peace and quiet, or sit in the back yard and enjoy peace and quiet. Goadin said he is in the military and enjoys his time here but would be leaving this summer so this will not be his problem much longer, but for his neighbors, he and they are at the end of their ropes and something needs to be done. He invited the Mayor and Council to come to his back yard when the weather warms up and observe the noise.

Goadin apologized to the police department, saying he calls them frequently and he knew they were paid to do more important things than baby-sit a car wash and issue citations. He said other than a citizens arrest, his only course of action was to call dispatch all the time, and he does not call 911, but it is creating a hindrance not just to the neighbors who are enduring a personal nuisance but it will put more and more burden on the City. Goadin said the cars have loud stereos and mufflers; motorcycles are now racing between the car wash and 82<sup>nd</sup> Street, and within two years someone will probably get killed there because he guessed their speed to be 80 mph. He said they are at the end of their rope and needed help.

Devine said we have the ordinances that Mr. Goadin or any of his neighbors could use to file a complaint against the owner of the property. He said evidently the City is not going to do anything for them because the ordinances have been in place for a long time so the people are going to have to take it on their own; there are ordinances the residents can use to make the owner maintain it like he is supposed to and like he agreed in the minutes of the Council meeting that he would do. Devine said he was on the Council when this happened and listened to the owner say that he would do certain things and they have not, only the small sticker signs on the vacuum. He said the residents have a tool, the Council is not going to use it so why not them. Devine said once the residents file as a group, the City will have to do something then. Patton asked Vincent to address that.

Vincent said if a citizen files a complaint, under Section 15-102 subsection 6 and 18 and Section 15-103 of the City Code, his office will take action, but he needed a citizen complaint with date, time and it would be very helpful if they had a tape recording of the sound.

Mayor Purcell asked what else could be done. He said this had been an issue for long over a year and asked what could be brought back at the next meeting, in addition to going to District Court. Mayor Purcell said citations on noise do not have an effect and there must be another method of controlling this. Mitchell said every car wash within a certain distance of houses could have restrictions placed on their hours of operation. Devine said this would only add one more ordinance that is not going to be enforced and the tools to do this are already in place. Devine asked if the decibel meter had ever been used. Thorne said the readings taken were within the code.

Devine said a car wash was barely over a block from his home and never hears loud music and it is busy, but the owner or one of his employees are there, and he sends those with boom boxes on their way if they do not turn them off. He said evidently this owner is not trying to comply with what he told the Council.

Thorne said in his opinion the decibel levels in the ordinance are too high because he had personally visited

location where there were complaints about noise and he found the level to be uncomfortable and people could hear it within their residence. He said 60 decibels would be disturbing to an individual in a residence in some areas. Mayor Purcell directed that an ordinance be returned in that regard.

Ewing-Holmstrom said the owner needed to hire some good attendants. Patton said since the zoning was granted, the owner does not have to do anything. Mayor Purcell said Council will consider the ordinance to decrease the decibel level, and the residents will file a complaint with the City Attorney. Mayor Purcell said the City Attorney should also proceed to collect evidence for Council to be able to declare the business a public nuisance and go to District Court.

Mayor Purcell asked the City Attorney if there were other options. Vincent said individuals can go to District Court, and they may or may not feel comfortable doing it without an attorney, and have the business declared a private nuisance versus a public nuisance.

Aaron Goding said 15 citations were given but there were 100 calls to dispatch; the reason only 15 were given is that the officer must personally observe the violation. He said by the time the officers get there, the person is likely already gone and if they see the police drive up, they leave for a minute or two. Goding said the neighbors have talked with Mr. Tippens and with some of the attendants working there and one of the attendants was one of the culprits.

Warren said when a person comes before Council to request a zoning and they make a statement, he understood they were not under oath but is there a way to hold them accountable to that. Vincent said no. Ewing-Holmstrom said that happened at a different location also.

Michael Light, 7606 NW Baldwin, said his property is directly north of the car wash, about 200 feet. He said he never calls 911 to report a noise violation but always calls the dispatch desk. Light said he had personally placed at least 50 calls about noise, and it is usually when the police department is the busiest, Thursday, Friday and Saturday evenings and Saturday afternoon. He said limiting the time of the car wash will not do much good because it is a problem on Saturday morning at 10 a.m. Light said the ordinance requires a stereo cannot operate and be heard over 25 feet away but his home is over 200 feet away from the car wash, the home has six inch exterior walls with double pane glass windows and sitting in his living room with all of the windows shut, he has to turn the TV up because the noise is so loud. He said he raised his back fence to seven feet tall to try to block the light and curtail the noise but it has not done that.

Light said he would like to see the car wash shut down; the owner should be told to curtail the noise, run it in a legal way, or shut it down. He said it is a big problem for the police department and that he felt like a nut calling all of the time but you cannot tolerate the noise. He said it is annoying enough at a stoplight but it goes on for 45 minutes when it is near your home. Light said the owner seems to feel that when the zoning change was approved that he was given blanket authority to do whatever he wanted. He said he was enjoying the Council meeting because it was a nice, quiet evening for him. Light said they might not have a problem for three or four nights, and then have a problem every single night for six or seven nights. He said he usually hears the noise, thinks it will stop in a minute, it does not after 15 minutes so he calls dispatch and ask if an officer is available and they say they will get one out as soon as they can, the officer shows up in 30 or 45 minutes, maybe an hour, and by then the noise is gone. Light said it happens time after time and they are here tonight to get some help.

Light said he thought the City had a remedy on violation of city ordinances; one is for a citizen to file a complaint but another is for the City to take action. He said the City did not need for him to do it, the City can do it and that was why they were present tonight, asking for the City to do it. Light said he would think the volume of complaint calls alone would be enough for the City to do something and he thought the Chief of Police should say he did not have time to mess with this, and he doesn't. Shanklin said they might need to use some unmarked cars. Light said he offered the use of his back yard any time and the City was welcome to use it. Patton said until the owner is held accountable, this will not stop. Devine said it could be set up to where the owner would get a ticket after 10 or so are issued to people on his property. Devine said that would show proof that he was maintaining a nuisance.

Vincent said the tickets say the 7500 block of old Cache Road, not on this particular property, so a person could have been stopped driving down Cache Road. He said a police officer could stay in one back yard with a decibel meter and another officer could be waiting to be told to go write the ticket. Thorne said it is a violation if music can be heard more than 25 feet away from a vehicle but they should still look at the decibel level for just noise. Mayor Purcell suggested officers give citations for two weeks, get the complaints to the City Attorney and work it from three or four angles to try and stop it; just talking about it will not help. Vincent said the maximum fine cannot be assessed for loud music. Mayor Purcell said after several patrons are cited, it should be that the owner could be cited. Debate was held on whether fining violators would have an impact.

Warren asked if an owner is given many citations, can Council then take action to close the business. Vincent said staff can send a recommendation that a business be declared a public nuisance and if Council agrees, a resolution can be passed similar to those that are done on dilapidated buildings and take them to District Court. Mitchell

encouraged the neighbors also to file as Vincent suggested. Patton asked if they should be filed individually or as a group. Vincent said each one can file individually and they would go to Barry Cousins, City Prosecutor, and they must be individual, notarized complaints with evidence. Shanklin asked what the evidence would be and Vincent said tape recordings and videos.

Elizabeth Young said she tried to talk to Mr. Tippens. She said in July Mr. Tippens told the Council no one had called him about loud music or any problems about his car wash and that was not true. Young said she contacted Mr. Tippens on March 27 the first time and told him about the noise, and Mr. Tippens response was that he had a \$1.2 million business, the City let him put it in, gave him permission, and there was nothing she could do about it. She said there were two or three calls in between, but the last call on the 9<sup>th</sup> of January, and she had called the police nine times already this month. Young said she called the police at 1:20 p.m. and an officer was not available but would be sent as soon as possible, by 1:35 p.m. the noise was terrible and the coffee in her cup was vibrating so she called back and the police said she was third or fourth on the list. She said by 1:50 p.m. she decided to go personally to the car wash and talk to the attendance. Young said she got there at 2:15 p.m. and asked the attendant why it took him so long to tell the people to turn their stereos down because they come in one after the other, all day long. She said the attendant asked her what she meant and she said she had to call the police twice in one hour, and the attendant told her he did not know what she had been smoking, he used profanity and told her to get out of there. Young said she had suggested the attendant work from 2 p.m. to 10 p.m. on Thursday through Sunday when the music is really, really bad. She said the only answer she ever gets is that the City gave the owner permission to put in the business, the heck with you.

Mayor Purcell said the Council has heard the frustration of the residents and something will get done.

Patricia Dawes said she and her sister own the home to the west of the car wash, so they are closest. She said real estate values in this area should be considered and are falling due to the car wash. Dawes thanked the police for their efforts. She said Mr. Tippens told the Council on August 13, 2002, about the signs that would be put up to ban loud noise. Dawes said her blood pressure has gone up and she cannot escape the noise.

A gentleman from the audience suggested use of unmarked police cars, and to take the owner to district court and make the owner put up a sound barrier wall.

Mayor Purcell said direction had been given and hopefully something will be done if the owner does nothing on his own.

38. Consider approval of a joint professional services agreement with Roy B. Hooper to provide consultation and lobbying services to the City of Lawton and the Lawton-Fort Sill Chamber of Commerce and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Letter from Chamber of Commerce; Consultant Agreement.

Mitchell said it is very important during this legislative session to have support through a lobbyist and by joining with the Chamber of Commerce we can maximize the effort and minimize the expense. He said it was important to work with Mr. Hooper to track legislation that is important to the City; there are a number of issues we are trying to introduce into legislation and several issues to be discussed during this legislative session that are very important to us. Mitchell said for the cost of \$7,000 the City would be well served by retaining this lobbyist.

Devine said this is a very cheap price. He said he knew Hooper personally and that he had been involved in State government for quite some time, off and on, and he was very well known. Devine said the City would be ahead by paying him more, but if this is what he will work for, he would support it 100% because Hooper will do a good job.

Givens asked if Hooper was being hired to track or to influence legislation. Mayor Purcell said hopefully it is both. Mitchell said it is to track and to provide us information and we would give him direction as to our position on particular legislation as it works through the House and Senate. Givens asked who establishes our position, will the Council vote on those each time or will it be from staff. Mitchell said he and the Chamber President, Dana Davis, would develop an issues paper and hand that out to the Council, receive concurrence, and visit with Hooper on a regular basis. Mitchell said there will be issues running through this session that are not going through committees that we have local representation on; water issues, for example, may be going through a committee chaired by someone from Tulsa and we have no local representation on the committee, so it is very difficult for someone in the Senate to track bills that are running through committees in the House. Mitchell said the idea is to get an agreement between the City and the Chamber on what those issues are and have Hooper assist us in tracking those issues.

Givens said he was a little concerned about the influence side and he was not sure he would agree with what the Chamber might want done, or maybe the rest of the Council, but it could be a hot point of us sharing how we think things should be and the Chamber agreeing on that, and even the Council as a whole agreeing on how it should be influenced. Givens said he understood the tracking aspect and fully supported that to be able to identify issues so we could then contact our local representatives and express our opinions, that is one thing, but when you get down to sharing him with the Chamber and trying to determine how you want him to influence someone, that is a different matter and he was concerned about that aspect.

Mitchell said the influence would come through our local representatives and senators. Mayor Purcell said they are all new and will benefit from Hooper knowing both sides, and the Chamber may be interested in different issues than the City, but hopefully the Council will indicate which issues they want pursued. Givens asked what happens if the Council does not agree with the Chamber.

Ewing-Holmstrom said members receive OML alerts and there are some issues you are asked to support but you do not necessarily agree with it. She said there may be instances where a city manager would want an issue to fail and a councilmember would want it to pass.

Mayor Purcell said they would have to work it out if there are disagreements with the Chamber in regard to supporting issues.

Shanklin asked if the new members to State office would agree to this. Mayor Purcell said it helps them. Shanklin disagreed. Mayor Purcell said they will tell you it does. Shanklin said he did not want to alienate those people.

Shanklin asked how many accounts this individual has other than this; will the City and Chamber receive 20% of his time, or 30%, and you do not know. He said state and federal representatives do not read the bills. Mayor Purcell said the lobbyist will help them know what is in it.

Ewing-Holmstrom said it is a good, proactive stand because of the new folks that are going up; the contract is only for six months and if it does not work, we do not have to do it again. Shanklin said he was not that set against it other than he did not want to see the members alienated. Mitchell said he had talked to Randy Bass today and he recommended it be extended to a year, that he thought it would be a valuable tool that would be of assistance to him because you have 2,600 pieces of legislation running through the House and Senate, and it comes down to trying to track not only what you are sponsoring but everything else going through the process. Shanklin asked how much time Hooper will devote. Mitchell said he would guess he might devote 20% or 25% of his time. Mayor Purcell said Hooper has a way of knowing what we are interested in and tracking what we tell him we are interested in, just like the Chamber will do so he does not have to worry about every single bill. Ewing-Holmstrom said we have nothing to lose and a lot to gain.

Mitchell said if the Council is not interested in doing this, then he anticipated that he and his staff would be spending more time up there because we have asked our legislators to introduced four or five pieces of legislation; we know that the budget, labor and water will be critical issues in this session. He said if the general government senate committee sets a meeting on Wednesday and our issue is number four on that agenda, he would sit in the meeting all afternoon and they might only get to the first three issues so the schedule is set for the following Monday and ours is third but they get to the first two only, so he would have spent two days up there with the issue never having been discussed.

Shanklin said he knew the rural water association had one of the strongest lobbies in the United States, other than the medical association. He said we are not going to change their minds. Warren said a lot of the influence is to keep those who are supporting your position rather than losing that support. Warren said he had seen 27 elderly persons carrying a flag in the Council Chambers and the members would then vote for their issue, and that is influence.

Givens said he heard Mitchell said he had asked for four or five pieces of legislation to be introduced and that he did not recall Council having discussed that. Mitchell said at this point we have asked for titles only, we do not have the substance of the legislation. Mitchell said we sponsored a bill last year regarding video cameras at traffic intersections that did not get out of committee; another bill addresses the Waurika Lake issue and water issues. Mitchell said last year there was a bill that would have strengthened our position with municipal liens when properties go to Sheriff's Sale; it passed the House but not the Senate and died in Senate committee. He said we are reintroducing some bills from last year. Ewing-Holmstrom suggested the Council receive a legislative update.

MOVED by Devine, SECOND by Shoemate, to approve the professional services contract with Roy B. Hooper from January 1, 2005 through June 30, 2005, for the purpose of providing professional consulting and lobbyist services to the City and authorize the Mayor and the City Clerk to execute this agreement.

Shanklin said Hooper will have to have expenses and asked how that will work. Mitchell said Hooper has to get any expense pre-approved, other than normal travel back and forth to the Capital. Mitchell said Hooper may need to speak with committee chairpersons and it may be appropriate to do so over lunch or dinner, then he will request pre-approval and he may ask us to attend those lunches or dinners. Shanklin said Hooper should not have to come down and request permission. Mayor Purcell said it is normal for consultants to do that for out of the ordinary expenses.

Ewing-Holmstrom said two legislative receptions are hosted by the chambers of commerce yearly and she urged attendance at those sessions.

VOTE ON MOTION: AYE: Warren, Shoemate, Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

## REPORTS

Ewing-Holmstrom said she found that you can only have a cat cage for a certain length of time from the Animal Shelter, regardless of how many cats are caught. She said they keep catching the same cat over and over, he has not been neutered and was at her front door again last night. Ewing-Holmstrom suggested having a progressively increasing fine for situations like that. Warren said he thought the animal fines were quite high.

Mayor Purcell distributed and read a memo as follows: The City Code provides that at the meeting prior to the confirmation, he is to notify members of the City Council in writing of his nomination for the position of Municipal Judge. He said he had been contacted by the City's current Municipal Judge, Michael Corrales, advising that he wishes to be considered for reappointment to the position of Municipal Judge for a two-year period commencing February 1, 2005. I am therefore submitting for your consideration the name of Michael Corrales for your confirmation at the January 25 City Council meeting. I request that the item be placed on the January 25 Council agenda for Council, in executive session if it so desires, can discuss the employment of Judge Corrales and take action in open session as necessary. A copy of the judge's current agreement, revised to reflect the next two years of employment, will be available in the City Clerk's Office. Devine said anyone the Council appoints to any office should be evaluated every six months. Mayor Purcell said it will be in the contract, it will be a standard evaluation clause that will be in every contract. Devine said it will be, not can be. Mayor Purcell said it will be very explicit and Council will approve the contract.

Mayor Purcell said a replacement is needed for Councilman Bass on the Finance Department's Investment Committee and asked Patton if he would serve. Patton agreed. No one objected.

Mayor Purcell said the Police Chief has a report on the E911 consolidation. Chief Thorne said the committee checking into the possibility of merging the two 911's met today and a recommendation was provided to the City Manager to go to the Mayor. It is the committee's recommendation that we do merge and have one 911 center, and the initial location for consideration is at the County, in the basement of the Comanche County Courthouse. They indicated they are remodeling and moving office space. The committee will meet next Wednesday and present the space requirements for a joint dispatch center. Mayor Purcell said Ron Kirby supports the consolidation of E911 and the emergency operations center; the details will have to be worked out but the concept is there and the Commissioners would have to decide as a group whether they supported the concept of merging. Devine asked if the City would give them money. Mayor Purcell said that would all have to be worked out, and there was discussion of having a separate authority to run it and placing money there.

Ewing-Holmstrom asked if the County residents were against this. Mayor Purcell said a small, vocal minority was opposed.

Warren asked if Council wanted to decrease the Judge's pay scale but allow him to practice law in areas such as reading abstracts. Mayor Purcell said it could be discussed with him in executive session. Vincent said the Judge is currently a full time employee, although he is allowed to do other things not related to law.

Mitchell requested a special Council workshop next Tuesday night to talk briefly about a concept for overhauling, revising and modifying our current pay plan system. He said the City Code requires that the pay plan be evaluated every two years.

Mitchell said Jim Scholz, recently hired Human Resources Director, was introduced to the Council. He said Mr. Scholz was a regional human resources director for UPS for about ten years.

Mayor Purcell said a meeting will be held on Friday at 11 a.m. in Oklahoma City about repealing 1529. He said many cities are bringing busloads of people, and that he, the City Manager, Assistant City Manager; and Ponca City will bring 26 people. He said if anyone is interested, a van will be arranged for.

## EXECUTIVE SESSION ITEM:

39. Pursuant to Section 307B.3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the purchase of property which is necessary for the Flower Mound Road Project (Gore to Rogers Lane) #STP-116B(046) and if necessary, take appropriate action in open session. Exhibits: None. Item was stricken

There was no further business to consider and the meeting adjourned at 9:50 p.m. upon motion, second and roll call vote.



